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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/674,106	12/26/2000	Takashi Kinouchi	6715/60750	3130

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EXAMINER

CHU, KIM KWOK

ART UNIT

PAPER NUMBER

2653

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13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/674,106

Applicant(s)

KINOUCHI, TAKASHI

Examiner

Kim-Kwok CHU

Art Unit

2653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on RCE Request filed on 5/26/04 (paper 12).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,6-10,12-16 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-10,12-16 and 18-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. PCT/JP00/01040.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 6, 13-16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scheffler (U.S. Patent 6,263,154) in view of Sharples, Jr. et al. (U.S. Patent 4,811,325) and Krikorian (U.S. Patent 5,726,909).

Scheffler teaches a digital recording and/or reproducing apparatus very similar to that of the instant invention. For example, Scheffler teaches the following:

(a) as in claim 1, a reproducing unit 48 for reading out digital data from a first recording medium 46 at a known read out rate of the first recording medium 46 (Fig. 1);

(b) as in claim 1, a temporary storage unit 64 directly connected to the reproducing unit 48 for temporarily storing digital data read out by the reproducing unit in controller 40 (Figs. 1 and 2; the storage unit 64 directly connects/joins the reproducing unit 48 with electrical circuit);

(c) as in claim 1, the temporary storage unit 64 includes an input/output calculation unit (in the reproducing unit 48 and recording unit 68) for processing the digital data from the reproducing unit in controller 40 with modulation and error correction and encoding (Figs. 3 and 9; column 8, lines 59 and 60; analog to digital conversion includes modulation, error correction and encoding are required to digitalized the data into a certain storable format);

(d) as in claim 1, a recording unit 68 for recording digital data read out from the temporarily storage unit 64 in a second recording medium 62 (Fig. 3; column 8, lines 55-60);

(e) as in claim 1, the controlling means 40 for controlling respective operations of the reproducing unit, the temporary storage unit 64 and the recording unit 68 (Fig. 2; custom recording; column 1, lines 15-19);

(f) as in claim 1, the controlling unit 40 causing the digital data from the reproducing unit to be written in the temporary storage unit 64 at a transmission rate higher than a predetermined recording rate of the second recording medium 62 (Fig. 2; inherent feature where the storage/write speed of the temporary storage such as a RAM and a hard drive are faster than an optical drive or a tape drive);

(g) as in claim 1, the controlling unit 40 causing the digital data to be read out from the temporary storage unit 64

at a transmission rate equal to the known recording rate for the second recording medium 62 (Fig. 2, the second recording medium is recorded in a standard format/rate);

(h) as in claim 1, for routing the read-out data to the recording unit 68 and causing the routed read-out data to be recorded in the second recording medium 62 at the known recording rate for the second recording medium 62 (Fig. 2);

(i) as in claim 2, when the reading out operation of the reproducing unit 48 in the controller 40 comes to a close/complete, the controlling means 40 causes the read-out data to be recorded on the second recording medium 62 by the recording unit 68 (Fig. 2; data recording starts when the required data read process is completed);

(j) as in claim 3, when the reading out operation from the first recording medium 44 by the reproducing unit in the controller 40 comes to a close, the controlling means 40 causes the read-out data to be recorded on the second recording medium 62 (Fig. 2; data recording starts when the required data read process is completed);

(k) as in claim 4, the controlling means 40 halts the recording by the recording unit 68 when the second recording medium 62 is not loaded on the recording unit at a starting time (Fig. 2; inherent feature where a recording operation

fails/stops if there is no recording medium to record data);
and

(1) as in claim 6, the data processing input/output calculation unit (in recording unit 68) is controlled by the controlling means 40 so that data read out from the temporary storage unit is decoded and read out at the transmission rate equal to the known recording rate for said second recording medium (Fig. 2; inherent feature where data rate sent for recording is the recording rate).

However, Scheffler does not teach the following:

(a) as in claim 1, reading out the digital data from the first medium at a transmission rate which is higher than the known read out rate; and

(b) as in claim 1, the temporary storage unit includes a hard disk drive as a temporary storage unit for temporarily storing the digital data.

Sharples, Jr. teaches a high speed CD-ROM player which reads out the digital data at a transmission rate which is higher than the known read out rate (Fig. 5; column 11, lines 39-50).

Krikorian teaches a hard drive which is used as a temporary storage unit (remote library) for storing received files.

To speed up the playback of a file recorded in a recording

medium such as an optical recording medium, it would have been obvious to one of ordinary skill in the art to reproduce Scheffler's medium 46 with a fast CD-ROM player as disclosed by Sharples, Jr., because the fast player can increase the reading speed in order to transmit the recorded data faster.

On the other hand, although Scheffler's temporary storage unit is not a hard drive, for the advantage of storage capacity, it would have been obvious to one of ordinary skill in the art to replace Scheffler's RAM with Krikorian's hard drive storage unit, because the hard drive can be used as a library so that it can store more files than the RAM.

3. Claims 13-16 and 18 have limitations similar to those treated in the above rejection, and are met by the references as discussed above.

4. Claims 7-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scheffler (U.S. Patent 6,263,154) in view of Sharples, Jr. et al. (U.S. Patent 4,811,325) and Krikorian (U.S. Patent 5,726,909).

Scheffler teaches a digital recording and/or reproducing apparatus very similar to that of the instant invention. For example, Scheffler teaches the following:

(a) as in claim 7, a decoding processing unit 48 for decoding data read out from a first recording medium 46 (Fig. 1; data ;

(b) as in claim 7, a first controlling unit 40 for controlling the decoding processing unit (Fig. 3);

(c) as in claim 7, a temporary storage unit 64 for storing data read out from the first recording medium 46 (Fig. 2);

(d) as in claim 7, the storage unit 64 includes an input/output calculation unit (in module 48) for processing the digital data from the reproducing unit 48 with modulation and error correction (Fig. 3; column 3, lines 51 and 52; analog to digital conversion includes modulation, error correction and encoding are required to digitalized the data into a certain storable format);

(e) as in claim 7, a recording unit 68 including an encoding unit 142 for encoding digital data read out from the temporary storage unit (Fig. 9; column 8, lines 59 and 60; digital to analog conversion includes modulation, error correction and encoding are required to digitalized the data into a certain storable format);

(f) as in claim 7, a second controlling unit 72 for controlling the encoding unit (Fig. 2);

(g) as in claim 7, the recording unit 68 storing digital output data from the encoding unit in a second recording medium 62; (Fig. 2; column 8, liens 59 and 60);

(h) as in claim 7, a third controlling unit 42 for supplying respective control signal-signals to the first controlling unit and to the second controlling unit to control operation of the reproducing unit and operation of the recording unit (Figs. 1 and 2; custom recording; column 1, lines 15-19);

(i) as in claim 7, the third controlling unit 42 supplying a control signal to the input/output calculation unit of the temporary storage unit 64 to read out digital data from the storage unit at a transmission rate equal to a known recording rate of said second recording medium (Fig. 2; the second recording medium is recorded in a standard format/rate);

(j) as in claim 7, the third controlling unit 42 sending a control signal to the second controlling unit 72 to cause digital data supplied thereto to be recorded on the second recording medium 62 at the known recording rate for the second recording medium (Fig. 2; the second recording medium is recorded in a standard format/rate);

(k) as in claim 8, the third controlling unit 42 causes digital data to be read out from the temporary storage unit 64 after an end of the reproducing operation of the first recording medium by the reproducing unit to route the read out data to the recording unit 68, the read out data being recorded by the recording unit on the second recording medium 62 (Fig. 2; data recording starts when the required data read process is completed);

(l) as in claim 9, when the data recording start time point is previously set in the second recording medium 62, the third controlling unit 42 causes digital data to be read out from the temporary storage unit 64 when the time is at the data recording start time point to route the read out data to the recording unit 68 to cause the read out data to be recorded on the second recording medium 62 (Fig. 2; start time is the download time);

(m) as in claim 10, when the second recording medium 62 is not loaded on the recording unit 68 and the time is the data

recording start time point, the third controlling unit 42 halts the recording operation of the second recording medium 62 (Fig. 2; inherent feature where a recording operation fails/stops if there is no recording medium to record data); and

(n) as in claim 12, the data processing input/output calculation unit is controlled by the third controlling unit 42 so that digital data read out from the temporary data storage unit 64 is processed with further decoding so that the data is read out at the transmission rate equal to the known recording rate of said second recording medium 62 (Fig. 2; third controlling unit 42 controls the duplication process of data stored in the temporary storage unit to the recording medium with encoding process).

However, Scheffler does not teach the following:

(a) as in claim 7, reading out the digital data from the first medium at a transmission rate which is higher than the known read out rate; and

(b) as in claim 7, the temporary storage unit includes a hard disk drive as a temporary storage unit for temporarily storing the digital data.

Sharples, Jr. teaches a high speed CD-ROM player which reads out the digital data at a transmission rate which is higher than the known read out rate (Fig. 5; column 11, lines 39-50).

Krikorian teaches a hard drive which is used as a temporary storage unit (remote library) for storing received files.

To speed up the playback of a file recorded in a recording medium such as an optical recording medium, it would have been obvious to one of ordinary skill in the art to reproduce Scheffler's medium 46 with a fast CD-ROM player as disclosed by Sharples, Jr., because the fast player can increase the reading speed in order to transmit the recorded data faster.

On the other hand, although Scheffler's temporary storage unit is not a hard drive, for the advantage of storage capacity, it would have been obvious to one of ordinary skill in the art to replace Scheffler's RAM with Krikorian's hard drive storage unit, because the hard drive can be used as a library so that it can store more files than the RAM.

5. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scheffler (U.S. Patent 6,263,154) in view of Sharples, Jr. et al. (U.S. Patent 4,811,325) and Krikorian (U.S. Patent 5,726,909).

Scheffler teaches a digital recording and/or reproducing apparatus very similar to that of the instant invention. For example, Scheffler teaches the following:

(a) as in claim 19, a reproducing unit 48 for reading out digital data from a first recording medium 46 (Fig. 1);

(b) as in claim 19, a temporary data storage unit 64 for temporarily storing digital data read out from the reproducing storage unit 48 (Fig. 2);

(c) as in claim 19, the temporary storage unit 64 includes an input/output calculation unit (in the reproducing unit 48 and recording unit 68) for processing the digital data from the reproducing unit in controller 40 with modulation and error correction and encoding (Figs. 3 and 9; column 8, lines 59 and 60; analog to digital conversion includes modulation, error correction and encoding are required to digitalized the data into a certain storable format);

(d) as in claim 19, a recording unit 68 for recording the digital data read out from the temporary data storage unit in a second recording medium 62 (Fig. 2);

(e) as in claim 19, a controlling means 42 for controlling the reproducing unit 48, the digital data storage unit 64 and the recording unit 68 in a second recording medium 62 (Figs. 1 and 2; computer controls the dubbing operation);

(f) as in claim 19, the controlling unit 40 operating so that when a data recording starting time point is previously set on the second recording medium 62 (Fig. 2; start time is the set download time);

(g) as in claim 19, data is read out from the temporary data storage unit 64 at a transmission rate equal to a known recording rate for the recording medium and routed to the recording unit 68 when a time is the recording starting time point, with the read-out data being recorded on the second recording medium 62 at the known recording rate for the second recording medium 62 (Fig. 2; any request of transferring or queuing of information from the reproducing unit is considered as a data recording starting time point); and

(h) as in claim 20, when the second recording medium 62 is not loaded on the recording unit and the time is the recording starting time point, the controlling unit 42 halts the recording operation of the second recording unit 68 (Fig. 2; inherent feature where a recording operation fails if there is no recording medium to record data).

However, Scheffler does not teach the following:

(a) as in claim 7, reading out the digital data from the first medium at a transmission rate which is higher than the known read out rate; and

(b) as in claim 7, the temporary storage unit includes a hard disk drive as a temporary storage unit for temporarily storing the digital data.

Sharples, Jr. teaches a high speed CD-ROM player which reads out the digital data at a transmission rate which is higher than the known read out rate (Fig. 5; column 11, lines 39-50).

Krikorian teaches a hard drive which is used as a temporary storage unit (remote library) for storing received files.

To speed up the playback of a file recorded in a recording medium such as an optical recording medium, it would have been obvious to one of ordinary skill in the art to reproduce Scheffler's medium 46 with a fast CD-ROM player as disclosed by Sharples, Jr., because the fast player can increase the reading speed in order to transmit the recorded data faster.

On the other hand, although Scheffler's temporary storage unit is not a hard drive, for the advantage of storage capacity, it would have been obvious to one of ordinary skill in the art to replace Scheffler's RAM with Krikorian's hard drive storage unit, because the hard drive can be used as a

library so that it can store more files than the RAM.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Logan (6,088,455) is pertinent because Logan teaches a system for editing a broadcast programming signals.

Montoya et al. (5,949,688) is pertinent because Montoya teaches a compact disc vending system which allows a user to compile a series of desired tracks and write these tracks to a compact disc.

Schoen (5,592,511) is pertinent because Schoen teaches a system for creation of user-selected audio products.

7. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks Washington, D.C.
20231 Or faxed to:

(703) 872-9306 (for formal communications intended for
entry. Or:

(703) 746-6909, (for informal or draft communications,
please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal 'Park
II, 2021 Crystal Drive, Arlington. VA., Sixth Floor
(Receptionist).

Any inquiry of a general nature or relating to the status
of this application should be directed to the Group
receptionist whose telephone number is (703) 305-4700.

Any inquiry concerning this communication or earlier
communications from the examiner should be directed to Kim CHU
whose telephone number is (703) 305-3032 between 9:30 am to
6:00 pm, Monday to Friday.

Kim-Kwok CHU
Examiner AU2653
July 9, 2004

(703) 305-3032

William Korzuch
WILLIAM KORZUCH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

kc 7/9/04